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10/559,978

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EXAMINER

CHENEVERT, PAUL A

ART UNIT

PAPER NUMBER

3612

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|---------------------------------------|--|
| Office Action Summary | Application No. 10/559,978 | Applicant(s) SATO, KAN'ICHI | |
| | Examiner Paul A. Chenevert | Art Unit 3612 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18,20-23,26,27,30 and 34-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 30 and 37-39 is/are allowed.
- 6) ☒ Claim(s) 18,20-23,26,27 and 34 is/are rejected.
- 7) ☒ Claim(s) 35 and 36 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. PCT/JP04/08275.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2008 10 03</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 18, 26 & 34 are **newly** rejected under 35 U.S.C. 103(a) as being unpatentable over Iwasa et al. (US 5,744,763 A; 28APR98) in view of Norvell (US 5,472,760 A; 05DEC95).

Iwasa et al. disclose an interior member *capable* for a cab of a work vehicle, best shown in Figure 15, and comprising: a foundation body panel (felt 91) which has a first side and a second side, and which comprises a plurality of ribs (72) at the second side, at least one space (51) being defined by the ribs at the second side of the foundation body panel; an outer layer material (non-woven fabric 92) provided at the first side of the foundation body panel; a first sound absorbing member comprising a sound absorbing material (pulverized rubber 11) provided between the outer layer material and the first side of the foundation body panel; and a plate (vehicle hood panel 14) provided at the second side of the foundation body panel, wherein the foundation body panel is fastened to the plate. The plate is not disclosed as metal, but vehicle hood panels are known to be manufactured from sheet metal panels. Figure 15 shows a foundation body panel without holes (41) and includes spaces to better absorb any sounds that are able to travel through the first sound absorbing material. These dimensions of these spaces are described as changeable to cover differing frequencies, such as for different engine types (combustion vs. electric).

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In regards to the amendments to claims 18 & 34, ‘formed by filling’ is a process step not given patentable weight in a product claim (see MPEP 2113). The Applicant is reminded that he already has a separate application (11/836,291) for his process invention.

In regards to claim 26, sound absorbing member (20) made of polyurethane foam, as described on column 14, line 56

In regards to claim 34, the interior member, as described above, is employed to sound-proof an engine compartment of a vehicle, but is capable of forming a wall member for a cab of a work vehicle, as described on column 1, line 7.

However, Iwasa et al. do not expressly disclose a second sound absorbing member comprising a sound absorbing material provided in the space defined by the ribs at the second side of the foundation body panel.

Norvell discloses two sound absorbing members (50, 52) separated by a foundation body panel (54).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the interior member of Iwasa et al., to employ a second sound absorbing member, as taught by Norvell.

The suggestion/motivation for doing so would have been to change the frequency range of absorbed sounds, as is desired in this vehicle invention.

Therefore, it would have been a desirable and thus a prima facie obvious modification of the interior member of Iwasa et al. by combining a second sound absorbing member with the first sound absorbing member to obtain the invention as specified in claims 18 & 34, as taught by the prior references’ motivation, and not hindsight from the Applicant’s disclosure.

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There are no further changes to the rejections below. The earlier rejections to claims 20-23 & 27 are repeated here only as a matter of placing them of record in the application.

3. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Iwasa et al., as modified, in view of Tokunaga et al.

Iwasa et al., as modified, disclose an interior member comprising a foundation body panel including ribs, as described above.

However, Iwasa et al., as modified, do not expressly disclose that the ribs cross each other.

Tokunaga et al. disclose an interior member mounted on a dashboard (13) for a cab of an automobile, comprising a sound absorbing material (14) contained inside a foundation body panel (10) including crossed ribs (12) on the rear surface side.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the interior member of Iwasa et al., as modified, to employ crossed ribs, as taught by Tokunaga et al.

The suggestion/motivation for doing so would have been to change the volume of the spaces, thus changing the frequency range of absorbed sounds, as is desired in this vehicle invention.

Therefore, it would have been a desirable and thus a prima facie obvious modification of the interior member of Iwasa et al., as modified, by combining crossed ribs with the foundation body panel to obtain the invention as specified in claim 20, as taught by the prior references' motivation, and not hindsight from the Applicant's disclosure.

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4. Claims 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iwasa et al. in view of Beaulat (US 5,595,415 A; 21JAN97).

Iwasa et al. disclose an interior member comprising a foundation body panel made of a material having heat insulating properties.

However, Iwasa et al. do not expressly disclose that the foundation body panel comprises a portion for attaching an electrical wire member channel at the second side of the foundation body panel, that the foundation body panel comprises a portion for forming an air conditioning duct at the second side of the foundation body panel, nor that a closing member closes a space defined by the portion for forming the air conditioning duct, wherein the closing member and the portion for forming the air conditioning duct together form the air conditioning duct

Beaulat discloses an interior member (covering panel 2) mounted on a door (1, 1a, 1b) for a cab of an automobile, comprising in that a sound absorbing material (column 4, lines 16-21) is contained between an outer layer material (second panel 3b) and a foundation body panel (first panel 3a). The interior member includes a duct (cavity 5) for attaching wire (electrical cables 5a) and an air conditioning duct (cavity 4) closed off by a closing member (inner skin 1b).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the interior member of Iwasa et al., to employ air conditioning and wire channeling ducts, as taught by Norvell.

The suggestion/motivation for doing so would have been to increase the uses for the interior member, as is desired in this vehicle invention.

Therefore, it would have been a desirable and thus a prima facie obvious modification of the interior member of Iwasa et al. by combining ducts with the foundation body panel to obtain

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the invention as specified in claims 21 & 22, as taught by the prior references' motivation, and not hindsight from the Applicant's disclosure.

5. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Iwasa et al., as modified, in view of obvious common knowledge.

Iwasa et al., as modified, disclose the claimed invention except for the first sound-absorbing member having a thickness of 5mm to 20 mm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to design the first sound-absorbing member to a thickness of 5mm to 20mm, since it has been held to be within the general skill of a worker in the art to select a thickness on the basis of its suitability for the intended use as a matter of obvious mechanical expedient choice. In re Leshin, 125 USPQ 416.

The Applicant's response on 01NOV07 does not address the Examiner's Official Notice of thickness selection submitted in the Office action filed 01AUG07. This appears to constitute acquiescence that the feature was well known in the art at the time of the invention.

Allowable Subject Matter

6. Claims 30 & 37-39 are allowed.

7. The following is an examiner's statement of reasons for allowance: the prior art does not show or make obvious Applicant's further sound absorbing member provided on an opposite side of a metal plate with respect to the foundation body panel (claim 30) nor an outer and inner metal plate (claim 37).

8. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

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fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

9. Claims 35 & 36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. The following is a statement of reasons for the indication of allowable subject matter: the prior art does not show or make obvious Applicant's exterior layer (claim 35).

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul A. Chenevert whose telephone number is (571)272-6657.

The examiner can normally be reached on Mon-Fri (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn D. Dayoan can be reached on 571-272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. Glenn Dayoan/
Supervisory Patent Examiner, Art Unit 3612

Paul A. Chenevert
Examiner
Art Unit 3612

PAC
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